

JULIA C. DUDLEY, CLERK
BY: *Chelvia*
DEPUTY CLERK

GRANTS plaintiff's second motion to amend the complaint pursuant to Fed. R. Civ. Pro 15(a)(2). The clerk is **DIRECTED** to docket the second amended complaint and its exhibits separately on the docket.

By granting plaintiff's motion to file her second amended complaint, plaintiff's pending motion to file her first amended complaint is moot. Therefore, the court will not adopt those portions of the report and recommendation related to plaintiff's first motion to amend her complaint. Like the first amended complaint, the second amended complaint moots the motions to dismiss (ECF Nos. 20 & 26) before the court as the second amended complaint only lists Beneficial Financial I, Inc. and Surety Trustees, LLC as defendants. Thus the portions of the report and recommendation that recommend denying as moot the motions to dismiss these actions (ECF Nos. 20 & 26) and dismissing without prejudice defendants City of Roanoke, Moss & Rocovich, P.C., R. David Barbe, Dennis A. Barbour and S.J. Robert Slemph will be adopted. Further, the court will adopt the portion of the report and recommendation directing plaintiff to promptly effect service upon Beneficial Financial I, Inc. and Surety Trustees, LLC, in accordance with the Federal Rules of Civil Procedure.

Therefore, the court will **ADOPT in part** the report and recommendation issued by the Magistrate Judge.

It is accordingly **ORDERED** and **ADJUDGED** that:

1. Plaintiff's second motion to amend (ECF. No. 31) is **GRANTED**.
2. Plaintiff's first motion to amend (ECF. No. 28) is **DENIED as moot**.
3. Plaintiff is **DIRECTED** to promptly effect service upon Beneficial Financial I, Inc. and Surety Trustees, LLC, in accordance with the Federal Rules of Civil Procedure.

4. The motions to dismiss these actions (ECF Nos. 20 & 26) are **DENIED** as **moot**.

5. Defendants City of Roanoke, Moss & Rocovich, P.C., R. David Barbe, Dennis

A. Barbour and S.J. Robert Slemph are **DISMISSED** without prejudice.

The Clerk is **DIRECTED** to send a copy of this Order to the pro se plaintiff and to counsel of record.

Entered: 02-26-2016

/s/ Michael F. Urbanski

Michael F. Urbanski
United States District Judge